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May 10, 2024

**VIA ECF**

Hon. Analisa Torres  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: United States v. Guo et al., Case No. 1:23-cr-00118 (AT)**

Dear Judge Torres:

Pursuant to the Court's Order dated April 10, 2024 (Dkt. No. 275), we write on behalf of Miles Guo to advise the Court that Mr. Guo does not intend to assert an advice-of-counsel defense.

Mr. Guo does, however, reserve the right to present evidence or testimony regarding his awareness that legal counsel was involved in certain transactions. This evidence bears directly on Mr. Guo's good faith and lack of fraudulent intent. *See, e.g., SEC v. Present*, No. 14 Civ. 14692 (LTS), 2017 U.S. Dist. LEXIS 120351, at \*2-3 (D. Mass. July 31, 2017) (although not asserting formal advice-of-counsel defense, defendant may offer evidence that he engaged counsel "to ensure compliance with legal requirements"). Of particular relevance, a defendant may introduce such evidence even where the defendant did not directly solicit counsel's involvement or interact with counsel. *See Howard v. SEC*, 376 F.3d 1136, 1148 (D.C. Cir. 2004) (rejecting SEC argument that defendant failed to assert formal advice-of-counsel defense and holding that defendant's reliance on representations from other officer that transactions at issue were reviewed by counsel negated inference of fraudulent intent).

Accordingly, Mr. Guo is entitled to present evidence to the jury that he was aware that lawyers were involved in various transactions without asserting a formal advice-of-counsel defense. *See Howard*, 376 F.3d at 1148; *Present*, 2017 U.S. Dist. LEXIS 120351, at \*2-3. An example of Mr. Guo's awareness of the involvement of counsel is annexed as Exhibit A, p.6.<sup>1</sup>

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<sup>1</sup> Mr. Guo is transmitting Exhibit A to the Court *ex parte*.



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Respectfully submitted,

A handwritten signature in blue ink that appears to read "sabrina".

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cc: Counsel of Record